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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,064	09/16/2003	Zaki A. Khan	E59121.006	2049
44093 7590 01/22/2008 ELEY LAW FIRM CO. 7870 OLENTANGY RIVER RD SUITE 311 COLUMBUS, OH 43235				
EXAMINER				
IDELL, JOSEPH T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### Office Action Summary

**Application No.**

10/663,064

**Applicant(s)**

KHAN ET AL.

**Examiner**

Joseph F. Edell

**Art Unit**

3636

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02 August 2007 has been entered.

### ***Specification***

The amendment filed 02 August 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "body structure beneath the seat cushion" and "or other structure relating to the floor" of paragraph 23. In the Remarks filed 02 August 2007, Applicant stated that the amendment to the specification does not add new matter because the further description of the floor does not change its original meaning and the vehicle floor would be recognized by those skilled in the art as a body structure. However, Applicant statements are unpersuasive. The specification amendment does change the original meaning of the specification's description of the relationship of the leg and the floor by expanding the teaching of the



specification, as originally filed. The specification, as originally filed, teaches that the leg 22 extends to a support contacting portion 30 of a floor 32. While Examiner agrees that those skilled in the art may recognize a similarity between the specific "a floor 32 of the vehicle" and the generic "body structure," the specification, as originally filed, does not convey to those skilled in the art that the inventors contemplated the leg 22 extending to anything other than the floor. Therefore, Applicant cannot amend the specification to expand the specification's teachings to cover areas not addressed by the originally filed specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,742,841 B1 to Soditch et al.

Soditch et al. disclose a seat that includes all the limitations recited in claims 1 and 2. Soditch et al. show a seat having a seat cushion 12 (see Fig. 1 ) with a forward, rearward, top, and bottom portions and a first frame 30 (see Fig. 1), a forward support



leg 46 pivotally coupled to the bottom portion of the seat cushion proximate the forward portion and adapted to contact a vehicle floor 6 when the seat cushion is horizontal, the seat cushion is pivotable about the rearward portion, a seatback 14 with upper and lower portions, and a moveable headrest coupled to the upper portion of the seatback (see column 3, lines 42-45) wherein the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upwardly (see column 5, lines 15-24) and automatically unfolds into an extended position perpendicular to the seat cushion when the seat cushion is pivoted downwardly (see column 5, lines 37-49), and the seat cushion is upwardly pivotable to a vertical position proximate and facially adjacent the seat back.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soditch in view of U.S. Patent No. 5,826,942 to Sutton et al.

Soditch et al. disclose a seat that is basically the same as that recited in claims 3, 4, and 10-15 except that the seatback lacks a horizontal position and the headrest lacks a pivotably coupling to the seatback and a third latch, as recited in the claims. See



column 4, lines 45-53 of Soditch et al. for the teaching that the seat cushion provides a visual indication when not in a retained position. Sutton et al. show a seat similar to that of Soditch et al. wherein the seat has a seat cushion 14 (see Fig. 1 ), a seatback 16 pivotable to a horizontal position, a headrest 24 pivotably coupled to the seatback, a latch 88 (see Fig. 3) that may be actuated by lever 90 to releasably retain the headrest in a first extended position or a second stowed position, the headrest is biased to a stowed position via gravity and the spring 92 biasing the latch member 84 against flange 64 upon actuation, and the headrest is linked to the seatback via linkage such that the headrest advances toward a stowed position as the seatback is downwardly pivoted and the headrest advances toward an extended position as the seatback is upwardly pivoted. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Soditch et al. such that the seatback is downwardly pivotable to a horizontal position proximate and facially adjacent the seat cushion, the headrest is pivotably coupled to the seatback, a latch of the headrest that may be actuated by a lever to releasably retain the headrest in a first extended position aligned with the seatback or a second stowed position perpendicular to the seatback, the headrest is biased toward the stowed position, and the headrest is linked to the seatback such that the headrest advances toward a stowed position as the seatback is downwardly pivoted and the headrest advances toward an extended position as the seatback is upwardly pivoted wherein a passenger would be deterred from utilizing the seat when the headrest is not in the extended position, and the seatback and headrest provide a visual indication when not in a retained position by



virtue of the seatback being horizontally disposed and the headrest being rotated to the stowed position, such as the seat disclosed in Sutton et al. One would have been motivated to make such a modification in view of the suggestion in Sutton et al. that the horizontal seatback provides a stored position, that the headrest configuration provides an independently adjustable headrest that is controllably adjustable between an upright use position and a flat stowed position for facilitating the folding of the seatback, and that the headrest and seatback being linked provides releasing the seatback to move to the stored position upon movement of the headrest's latch.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soditch et al. in view of U.S. Patent No. 5,707,103 to Balk, and claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soditch et al. in view of Sutton et al. as applied to claims 3, 4, and 10-15 above, and further in view of Balk.

Soditch et al. disclose a seat that is basically the same as that recited in claims 6-9 and 20 except that the seat cushion lacks a first lever to release a first latch and the seatback lacks a second lever to release a second latch, as recited in the claims. See column 4, lines 41-42 of Soditch et al. for the teaching that the detent 48 may include a latch, and columns 4 and 5 for the teaching the seat cushion is releasably retained either in a horizontal position or a vertical position. Balk shows a seat similar to that of Soditch et al. wherein the seat has a seat cushion 12 (see Fig. 1), a first latch 20 to releasably retain the seat cushion, a first lever 60 that may be actuated to release the latch when the seat cushion is pivoted, a seatback 14 releasably retained, a second latch (see column 3, lines 52-62), and a second lever 62 actuating the second latch.



Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Soditch et al. such the seat cushion is releasably retained in at least one position by a first latch and the first latch may be actuated by a first lever to release the latch when the seat cushion is to be pivoted, and, with respect to claims 8 and 9, the seatback is releasably retained in at least one position by a second latch and a second lever actuates the second latch when the seatback is to be pivoted, such as the seat disclosed by Balk. One would have been motivated to make such a modification in view of the suggestion in Balk that the lever of the seat cushion's latch and the seatback's latch configuration are well known in the art as a way to releasably retain seat cushions and seatbacks.

### ***Response to Arguments***

Applicant's arguments filed 02 August 2007 have been fully considered but they are not persuasive. With respect to teachings of Soditch et al., Applicant submitted a declaration to antedate the Soditch et al. reference. The declaration filed on 02 August 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Soditch et al. reference. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Soditch et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897



C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The evidence presented fails to establish conception, among other claimed features, of the seat "anchorable to the . . . vehicle." Therefore, Examiner maintains the rejections based upon the teachings of Soditch et al.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.



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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
January 22, 2008